



U.S. Department of Justice

Immigration and Naturalization Service

B9

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

FILE: [REDACTED]
EAC 98 126 51320

Office: Vermont Service Center

Date: AUG 10 2000

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

APPLICATION: Petition for Special Immigrant Battered Spouse Pursuant to Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. 1154(a)(1)(A)(iii)

IN BEHALF OF PETITIONER:

[REDACTED]

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Terrance M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Vermont Service Center. A subsequent appeal was dismissed by the Associate Commissioner for Examinations. The matter is now before the Associate Commissioner on a motion to reopen. The motion will be dismissed.

The petitioner is a native and citizen of the Dominican Republic who is seeking classification as a special immigrant pursuant to section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1154(a)(1)(A)(iii), as the battered spouse of a United States citizen.

The director denied the petition after determining that the petitioner has failed to establish that she: (1) has been battered by, or has been the subject of extreme cruelty perpetrated by, her citizen spouse during the marriage; and (2) is a person whose deportation (removal) would result in extreme hardship to herself or to her child.

Upon review of the record of proceeding, the Associate Commissioner determined that the petitioner had overcome the director's finding that she has not established that removal would result in extreme hardship pursuant to 8 C.F.R. 204.2(c)(1)(i)(G). However, he concurred with the director's conclusion that the petitioner has not established that she has been battered by or has been the subject of extreme cruelty pursuant to 8 C.F.R. 204.2(c)(1)(i)(E) and denied the petition on September 30, 1999.

On motion, counsel states that the petitioner is obtaining an additional statement from the [redacted] Office in New York based on further treatment of the petitioner, and it is their contention that this additional evidence shall be adequate to overcome the reason for the denial. He requests that the matter be reopened so that they may present additional documentation.

Pursuant to 8 C.F.R. 103.5(a)(2), a motion to reopen must state the new facts to be proved at the reopened proceedings and be supported by affidavits or other documentary evidence. A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. 103.5(a)(4).

Neither counsel nor the petitioner stated or presented new facts or other documentary evidence in support of the motion to reopen. Further, it has been well over eight months since the filing of the motion and no additional evidence is furnished.

Accordingly, the motion will be dismissed.

ORDER: The motion is dismissed.